Law Offices
HUB LAW OFFICES
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360
Telecopier: (415) 456-5318

Ford Greene, Bar No. 107601
Attorney for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATINOAL

Plaintiff,

vs.

GERALD ARMSTRONG

Defendant

Case No. 157 680

ARMSTRONG'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR RECONSIDERATION OF GRANT OF SUMMARY ADJUDICATION AS TO TWENTIETH CAUSE OF ACTION FOR OERMANENT INJUNCTION; REQUEST FOR JUDICIAL NOTICE

Date: December1 1995
Time: 9:00 A.M.
Dept: One (1)

I. INTRODUCTION

The critical error that the Court has made and concerning which Armstrong seeks reconsideration is that on a motion for summary adjudication it failed take into consideration the legal effect of the declaration and other representations made in Court by Scientology attorney Lawrence Heller. [1] This Court appears to

[1] Scientology attorney Lawrence Heller, who negotiated the agreement at issue on behalf of Church of Scientology International, is the representative of Scientology depicted on the videotape of Armstrong's signing of the agreement (Scientology's Evidence in Support of Motion for Summary Adjudication as to Twentieth Cause of Action, Ex. 1 (B)), advised one court in 1989 in a motion to quash a deposition subpoena served on Gerald Armstrong (that was based on the agreement) that he "was personally involved in the [1986] settlement" and stated under oath "The non-disclosure obligations were a key part of the settlement agreements insisted upon by all parties involved." (Armstrong's Separate Statement in Opposition to Summary Adjudication on Twentieth Cause of Action at ¶ 101) To the Court he further stated, "One of the key ingredients to completing these settlements, insisted upon by all parties involved, was **strict confidentiality** respecting: (1) the Scientology parishioner or staff member's experiences with the Church of Scientology; (2) **any knowledge possessed by the Scientology entities concerning those staff members or**

have ignored the representations of Mr. Heller. Armstrong respectfully submits that were the Court to consider them, summary adjudication would have to be denied on at least one, and probably two, essential grounds.

Mr. Heller, subject to Professional Rule 5-200 which requires him to be truthful when presenting matters to the court, stated that the confidentiality provisions of the settlement agreement at issue here were mutual and reciprocal. The impact of this undisputed piece of evidence is at minimum twofold, and one way or the other, for the purposes of summary adjudication, is dispositive.

If the Court considers Mr. Heller's judicial statements, both under oath and in the presentation of the cause to the Court, as a matter of contractual interpretation, the Court has no choice but to conclude that Mr. Heller's statements, standing alone, create an issue of fact as to the intent of the parties and the scope of the agreement. *Assuming arguendo* that the Court refuses to consider Mr. Heller's statements for the purpose of contractual interpretation, Mr. Heller's statements create an issue of fact as to whether or not Armstrong consented to the provisions of the agreement. If that to which Armstrong consented was an understanding and agreement such as that which Mr. Heller stated to the Court, an issue of fact is raised as to whether Armstrong's waiver of his First Amendment rights was knowing, intelligent and voluntary. Whichever view is adopted, the conclusion is the same. The settlement agreement cannot be enforced on a motion for summary adjudiciation because a question of fact exists either as to the parties' intent, or as to the legal effectiveness of Armstrong's consent, or as Armstrong argues, as to both.

Although Scientology claims that Armstrong's arguments are rambling, irrelevant, improper, and sanctionable, the fact remains that this Court has not considered Mr. Heller's statements, and if it does, it must grant reconsideration and deny summary adjudiciation.

II.

---

parishioners." (*Id.* at _ 102) When Heller spoke to Armstrong on November 20, 1989, Heller stated that Scientology had obligations of non-disclosure as well as Armstrong. (*Id.* at ¶ 103) Scientology admits that Mr. Heller's statements do "not contradict the written Agreement at all." (Opposition to Reconsideration at p. 11:24) Such is admissible evidence (*Witkin, California Evidence, sections 637-639, 648)* admitting contract liability. (*Id. At section 670*)

HELLER'S ADMISSIONS ARE ADMISSIBLE FOR THE PURPOSES OF INTERPRETATING THE CONTRACT AND ANALYZING WHETHER OR NOT ARMSTRONG WAIVED HIS CONSTOITUTIONAL RIGHTS AND RAISES ISSUES OF FACT AS TO BOTH THUS DEFEATING SUMMARY ADJUDICATION

A. Heller's Admissions Create Ambiguity As To The Parties' Contractual Intent

Scientology contends that Armstrong has "provided no factual or legal basis for this Court to change its prior ruling." (Opposition at 7:19-20) Armstrong has provided both. It is first instructive to note that the factual issue which Armstrong implores the Court to recognize is not his undisclosed subjective intent, which, or course, would be irrelevant, (*Brant v. California Dairies, Inc.* (1935) 4 Cal.2d 128, 133), but plaintiff's disclosed intent stated by plaintiff's attorney in court that is critical. Armstrong is not asking the Court to base its decision on something that was only in his mind, and which he did not disclose to plaintiff and which admittedly no one discussed. To the contrary, what Armstrong relies on is an explicit consideration expressly articulated by plaintiff's counsel in connection with post-settlement and pre-dispute conduct in relation to the settlement negotiations which gave birth to the agreement which Armstrong submits this Court must now interpret.

Thus, the threshold determination which the Court must make is whether to admit Heller's parol evidence to construe a written instrument when its language is ambiguous.

> The test of whether parol evidence is admissible to construe an ambiguity is not whether the language appears to the court unambiguous, but whether the evidence presented is relevant to prove a meaning to which the language is "reasonably susceptible." [Citation.]
>
> The decision whether to admit parol evidence involves a two-step process. First, the court provisionally receives (without actually admitting) all credible evidence concerning the parties' intentions to determine "ambiguity," i.e. whether the language is "reasonably susceptible" to the interpretation urged by a party. If in light of the extrinsic evidence the court decides the language is "reasonably susceptible" to the interpretation urged, the extrinsic evidence is then admitted to aid in the second step - interpreting the contract.

(*Winet v. Price* (1992) 4 Cal.App.4th 1159, 1165.)

Thus, whether the contract is reasonably susceptible to a party's interpretation can be determined from two separate sources. It can be determined from the language of the contract itself, or from extrinsic evidence of the parties' intent. (*Southern California Edition v. Superior Court* (1995) ___Cal.App.4th___, 44 Cal.Rptr.2d 227, 232.) "It is the outward expression of the agreement, rather than a party's unexpressed intention, which the court will enforce." (*Winet, supra*, at p. 1166.)

In *Southern California Edition*, the trial court granted summary judgment finding that the contract language was not ambiguous and was not reasonably susceptible to the interpretation urged by SCE. In so doing the "trial court refused to consider the evidence of [real party] Energy Development's statements to investors and to SCE on the issue of whether the contract was reasonably susceptible to the interpretation urged by SCE. ... We hold that the trial court erred in not considering this evidence on the issue of whether the contract was ambiguous." (*Southern California Edition Co., supra*. 44 Cal.Rptr.2d at 233.) In *Southern California Edition*, SCE argued that Energy Development's conduct was evidence of how it interpreted its rights under the contract. The Court of Appeals agreed. It stated

> The rule is well-settled that in construing the terms of the contract the construction given it by the acts and conduct of the parties with knowledge of its terms, and before any controversy has arisen as to its meaning, is admissible on the issue of the parties' intent. [Citation.] Contrary to Energy Development's claim, this rule is not limited to the joint conduct of the parties in the course of the performance of the contract. As stated in Corbin on Contracts, "The practical interpretation of the contract by one party, evidenced by his words or acts, can be used against him on behalf of the other party, even though that other party had no knowledge of those or acts when they occurred and did not concur in them. In the litigation that has insued, one who is maintaining the same interpretation that is evidenced by the other party's earlier words, and acts, can introduce them to support his contention." [Citations.] We emphasize that the conduct of one party to the contract is by no means conclusive evidence as to the meaning of the contract. It is relevant, however, to show the contract is *reasonably susceptible* to the meaning evidenced by that party's conduct.

(*Id.* 44 Cal.Rptr.2d at 234.)

In *Heston v. Farmer's Insurance Group* (1984) 160 Cal.App.3d 402, the appellate court addressed a situation in a certain material respect quite close to that before the Court now. In the trial court the parties argued differing theories of contractual interpretation as to a non-competition agreement. Heston submitted to the trial court a brief submitted by Farmers' counsel before the National Labor Relations Board three years prior to the creation of the contract being litigated. In the brief, farmers' counsel argued in favor of the very interpretation urged by Heston and repudiated by Farmers in the Heston litigation. The court of appeal held that the brief was properly admitted "to show that both he and Farmers intended the Agreement to mean the same thing. The interpretation offered by Farmers' counsel in the NLRB brief was furthermore consistent with the language used and with a meaning to which the language was reasonably susceptible." (*Id.* at 414-415.) There is little, if any, difference between Farmers counsel's NLRB brief adopting the contractual interpretation urged by Hestor, and Heller's brief and declaration in the instant case. Heller's judicial statements raise an

issue of fact as to the intent of the parties to have included within its scope obligations of mutual confidentiality. This being so, summary adjudication is necessarily precluded.

Finally, in *Vega v. Western Empire Insurance Co.* (1985) 170 Cal.App.3d 922 the appellate court addressed whether or not a post-verdict settlement and Civil Code section 1542 waiver supported the trial court's grant of summary judgment in favor of an insurance carrier against whom Vega sought liability for bad faith. Western argued below that the contract language specifically releasing it from liability "for injuries known and unknown" included within its scope liability for bad faith. Based upon Vega's declaration that he did not intend to so release Western, and the circumstances under which the agreement was executed, the appellate court reversed finding that there was an issue of fact as to the parties' intent. In the instant case, the evidence, as argued above, is stronger than any declaration by one of the parties. [2]

Mr. Heller's statements constitute but a single item of circumstances which gave rise to the agreement. In addition, the Court must take into consideration the facts that Judge Brecjkenridge had judicially credited Armstrong's testimony, slammed Scientology as being a vicious organization that had no compunction regarding violating the rights of others, and ordered that both Armstrong and his counsel, Michael J. Flynn, were free to discuss their knowledge of Scientology and distribute documents therefrom. In addition, less than six months before a Los Angeles County jury had awarded $25 million in punitive damages against Scientology in favor of Lawrence Wollersheim (Declaration of Lawrence Wollersheim in Opposition to Summary Judgment, on 20th Cause of Action filed April 10, 1995, at 1:10-17) and Armstrong

---

[2] In support of its opposition to the instant motion, Scientology submits additional evidence aside from that which was before the Court on summary judgment. Specifically, it submits deposition testimony from Armstrong which it claims to "contradict" Armstrong's reciprocity argument. Armstrong objects to this evidence as irrelevant and improperly placed before the Court because it was not part of the summary judgment litigation notwithstanding the fact that the issue of mutuality was raised therein. Reserving said objections, Armstrong notes that his testimony in no way contradicts his position, but is completely consistent with Heller's judicial statements. "Q. And at the time you got that agreement you recognized that problem with it, that it didn't prohibit them from saying whatever they wanted about you, right? A. Well, I also understood from basic understanding and from talking to Michael Flynn that as soon as they open their mouth and say one word, they've waived it, you have a new unit of time, they've violated it, that's it, you're free to talk, you can respond because you cannot, this does not have to do with future acts." Exhibit H to Bartilson Decl. In opposition to Motion at 160:19-161:3.) Armstrong tenders the same objections to Exhibit G submitted by plaintiff in opposition to the instant motion, and reserving the same, notes that Exhibit G makes reference to the "four-corners of the document" and does not include any reference to the circumstances surrounding the execution of the agreement. Thus, neither item of evidence supports Scientology's claim that Armstrong engages in "double speak."

had a cross-complaint against Scientology about to go to trial that involved the same type of "fair game" activities that had been in the middle of Wollersheim's case. In light of these facts, while $800,000 is undoubtedly a substantial sum of money, it cannot be said as a matter of law that Armstrong sold his right to his reputation and name so as to allow Scientology to lie about him as part of a massive public relations campaign. Indeed, given the tenor of the litigation as it then existed, and Judge Breckenridge's judgments regarding Armstrong and Scientology, the agreement is "reasonably susceptible" of the interpretation which Armstrong hereby urges. [3]

B. Heller's Judicial Statements Raise An Issue Of Fact Whether Armstrong Consented To Waive His First Amendment Rights To Free Speech So as To Become Limp Fodder For Scientology's Slander Machine And Give Up His First Amendment Rights To Religious Liberty As Well.

Even if the Court were to exclude Mr. Heller's judicial statements regarding CSI intent in entering the agreement, said statement still raise issues of fact with respect to whether or not Armstrong waived his First Amendment rights. In order for a waiver of First Amendment rights to be binding and effective, the waiver must be made "voluntarily, knowingly, and intelligently." (*ITT Talcum Products Corp. v. Dolly* (1989) 214 Cal.App.3d 307, 319.) Assuming that when Heller was making honest representations in judicial proceedings and not seeking to mislead the Court in violation of his professional duties, it necessarily follows that there is an issue of fact whether Armstrong's purported First Amendment waiver was effective. If Armstrong believed

---

[3] Armstrong calls to the Court's attention the expedient nature of the various representations which Scientology makes to different Courts. In October 1989, Mr. Heller told the Los Angeles Superior Court that the confidentiality provisions of the agreement applied to all parties and that "Peace has reigned since the time the interested parties entered into the settlements, all parties having exercised good faith in carrying out the terms of the settlement, including the obligations of confidentiality." (Exhibit 1(A)(D) to Armstrong's Evidence in Opposition at 4:9-19) In October 1987, Kenneth Long, a paralegal for Church of Scientology of California and Church of Scientology International for the last 15 year, told the High Court if Justice in Great Britain that "Gerald Armstrong has been an admitted agent provocateur of the U.S. Federal Government who planned to plant forged documents in Church files which would then be "found" by Federal officials in subsequent investigation as evidence of criminal activity." (Armstrong's Evidence in Opposition to Summary Judgment at Ex. 1 (A)(H) at paragraph 9; Ex. 1 (A)(I) at paragraph 9.) In addition, Long stated that Armstrong had violated orders in ht e litigation which was supposedly covered by the settlement agreement. (*Id.* at Ex. 1 (A)(H) at paragraphs 3, 7; Ex. 1(A)(I) at paragraphs 7, 9; Ex. 1 (A)(J) at paragraph 15; Ex. 1 (A)(K) at paragraph 15.) In light of Mr. Heller's statements regarding the mutuality of the confidentiality provisions, Mr. Long's statements can only be considered violations thereof. That being the case, Mr. Armstrong's counter performance is excused. This raises further factual questions with respect to whether or not Scientology can enforce the confidentiality provisions against Armstrong, or whether its own breach precludes it from so doing.

that the confidentiality provisions were mutual, then his waiver of First Amendment rights was not voluntary, knowing and intelligent because it was based upon a misperception that has been support by Mr. Heller.

In addition to Mr. Heller's statements, all of the facts of the facts surrounding the settlement agreement support the view that the requirement of silence was mutual. Throughout the initial litigation, Scientology had tried to silence Armstrong and had characterized him in slanderous ways. When Judge Breckenridge resoundingly vindicated Armstrong by crediting him as truthful and freeing him from any restraint on his ability to freely speak about Scientology, it makes no sense that Armstrong would agree to Scientology being free to slander him with impunity while he would have to maintain silence or risk being sued. Armstrong's track record was simply not such as to be susceptible of prostituting himself for money. When one takes the additional fact of the amount of the $30 million judgment in *Wollersheim v. Church of Scientology of California* (1989) 212 Cal.App.3d 872 was handed down in July 1986, in conjunction with Armstrong's cross-complaint on the threshold of trial in December 1986, the $800,000 settlement amount makes more sense. In addition, the $800,000 figure was arrived at between Armstrong and his counsel and his counsel's 17 other settling clients, not between Armstrong and Scientology. That amount was based upon the following considerations:

> [W]e acknowledge that many of the cases/clients involved in this settlement have been in litigation against the Church of Scientology for than six to seven years, that many have been subjected to intense, and prolonged harassment by the Church of scientology throughout the litigation, and that the value of their respective claims stated therein in measured in part by the (a) length and degree of harassment; (b) length and degree of involvement in the litigation; (c) the individual nature of each respective claim in connection with either their involvement with the Church of Scientology as a member and/or as a litigant; (d) the unique value of each case/client based on a variety of things including, but not limited to, the current procedural posture of a case, specific facts unique to each case, and financial, emotional or consequential damage in each case. ...

(Scientology's Evidence in Support of Summary Adjudication on 20th Cause of Action at Ex. 1 (c) at p. 4 of "document entitled "Settlement Agreement.") Aside from agreeing to maintain the confidentiality of the Settlement Agreement, said exhibit says nothings of unilateral confidentiality requirements.

III. THERRE IS A QUESTION OF FACT AS TO WHETHER THE AGREEMENT IS ILLEGAL

It is clear that the purpose of Scientology's interpretation that the confidentiality provisions are unilateral is to obstruct justice. This conclusion is inescapable when one takes Judge Breckenridge's - a jurist

of considerable esteem - [4] finding that Armstrong was telling the truth about Scientology and compares that finding with the following statement by Kenneth Long:

> At the time the Church settled with Armstrong, Armstrong was both an anti-Church litigant and professional witness against the Church in other litigation. He was also a paralegal who worked extensively on anti-Church cases, and a self-designated public relations man who gave interviews to many reporters for sensationalist journals.
>
> Prior to December 1986, Armstrong had testified in 15 cases, including his own, for a total of 28 trial days, attacking the Church of Scientology and related entities and individuals.
>
> Prior to December 1986, Armstrong had been deposed for 19 days, and had executed 28 declarations in 15 cases, attacking the Church of Scientology and related entities and individuals.
>
> Before December, 1986 Armstrong appeared on more than 10 television and radio programs, attacking the Church of Scientology and related entitled and individuals. In October 1986, Armstrong was interviewed at length on the television program 2020.
>
> Before December 1986, more than 76 stories about Armstrong appeared in united States newspapers. In these articles, too, Armstrong attacked the Church and related individuals and entities.

(Request for Judicial Notice, Ex. A: Declaration of Kenneth Long)

Since Breckenridge found Armstrong to be credible, Scientology and malevolent on one hand, and Long states the breadth of Armstrong's truth-telling activities on the other, the agreement is clearly for the purpose of suppressing evidence. The fact that Scientology lies about Armstrong [5] while falsely asserting that the confidentiality provisions of the agreement are unilateral as to Armstrong only manifests a motivation that is deeply reprehensible. Yesterday, a United States District Judge found that Scientology's litigation tactics were just that, "reprehensible." She said:

> On the first issue, the Court finds that the motivation of plaintiff in filing this lawsuit against The Post is reprehensible. Although RTC [6]brought the complaint under traditional secular concepts of copyright and trade secret law, it has become clear that a much broader motivation prevailed – the stifling of criticism and dissent of the religious practices of Scientology and the destruction of its

---

[4] The 5th Edition of the criminal jury instruction, CALJIC, is dedicated to Paul G. Breckenridge, Jr.

[5] Scientology's complaint states, "Armstrong, a former Church member who sought, by both litigation and covert means, to disrupt the activities of his former faith, displayed through the years an intense and abiding hatred for the Church, and an eagerness to annoy and harass his former co-religionists by spreading enmity and hatred among members and former members." (Scientology's request for Judicial Notice in Support of Motion for Summary Adjudication of Twentieth cause of Action, Ex. A at 2: 10-15.) If this is true, then one "must never fear to hate the odious" and it is no basis for a lawsuit.

[6] RTC stands of Religious Technology Center, which was one of the corporate entities involved in Mission Corporate Category Sort-Out ("MCCS") and discussed in the *Zolin* litigation discussed in the moving papers. In *Church of Spiritual Technology v. United States* (1992) 26 Cl.Ct. 713, 716-717, the court notes the relationship between among MCCS, Armstrong litigation (fn 6), *Zolin* (fn. 7), and the inception of RTC as part of what it called a "*deceptis visus*."

opponents. L. Ron Hubbard, the founder of Scientology, has been quoted as looking upon the law as a tool to

> [h]arass and discourage rather than to win. The law can be used very easily to harass and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized, will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly.

(Request for Judicial Notice, Ex. B: Memorandum Opinion filed November 28, 1995 in *Religious Technology Center v. Lerma, The Washington Post, et al.* United States District Court, Eastern District of Virginia, Case No. 95-1107-A.)

While what may appear before the Court to be a simple breach of contract case (INDEED, Scientology refers to it as "a garden variety dispute" [Opposition at 13:3]) is even more reprehensible than the litigation which the judge threw out above. In order not to consider that this provides a "germ of a defense" the Court must completely disregard Mr. Heller's judicial statements.

IV. THE INJUNCTION STRIPS ARMSTRONG OF HIS ABILITY TO DEFEND HIMSELF IN ONGOING LITIGATION.

Scientology states that the "bankruptcy court has made it crystal clear to Armstrong that it has no intention of permitting him to relitigate in that forum matters which have already been litigated here." (Opposition at 2:3-5, see also 6:5-7:10) This is without any basis in fact and Armstrong objects to it as without foundation. Indeed, in the adversarial bankruptcy proceeding against Armstrong, Scientology had filed a motion to strike Armstrong's answer which was set for hearing two hours after the summary judgment motion was set forth hearing. Scientology motion to strike contended that the allegations of Armstrong's answer were "immaterial, impertinent, and scandalous." (Request for Judicial Notice, Ex. C, at 2:7 and accompanying memorandum) Since the bankruptcy court denied Scientology's motion ½ hour after this Court granted the permanent injunction, Armstrong is placed in the untenable position of being unable to defend himself in the federal action if he is to be in compliance with this Court's order. This is patently unfair and reminds of Judge Breckenridge's comment regarding Scientology litigation tactics. "First Amendment rights .. cannot be utilized by the Church, or its members, as a sword to preclude the defendant, whom the Church is suing, from defending himself." (Armstrong's Evidence in Opposition to Motion for Summary Adjudication on 20th Cause of Action at 7:2-5)

V. SANCTIONS SHOULD NOT BE AWARDED

In *Taylor v. Varga* (1995) 43 Cal.Rptr.2d 904,911, the trial court's sanction order was BASED on "duplicative requests previously denied, mis-citing of the facts and law and failure to follow applicable law." The instant motion does not fail to cite either the facts or the law. Although it does include facts and law that were before the Court on summary adjudication, it calls the Court's attention to the existence and legal effect of Mr. Heller's judicial statements, in addition to pointing out that Armstrong is prevented by the Court's order from defending himself in the federal action. At the time the summary adjudication motion was heard, this fact did not exist because had Scientology been successful in striking Armstrong's answer, he would have had little, if anything to defend. Shortly after this Court ruled, however, the federal court denied Scientology's motion to strike. Now, in that action Armstrong stands to lose because this Court's order prevent him from defending himself.

VI. CONCLUSION

Based upon the foregoing arguments, defendant Armstrong respectfully submits that his motion for reconsideration should be granted.

DATED: November 29, 1995

HUB LAW OFFICES

By: _____

FORD GREENE

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteenyears and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents:

ARMSTRONG'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR RECONSIDERATION OF GRANT OF SUMMARY JUDGMENT AS TO TWENTIETH CAUSE OF ACTION FOR PERMANENT INJUNCTION; REQUEST FOR JUDICIAL NOTICE; OUT OF STATE AUTHORITIES

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON,ESQ. BY FAX
Bowles & Moxon
6255 Sunset Boulevard
Suite 2000
Los Angeles, California 90028

[X] (Personal Service) I caused such envelope to be delivered by hand to the offices of the addressee.

[X] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[X] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: November 29, 1995